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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,344	03/12/2004	Yasuo Ohashi	Q80301	5593

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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

EXAMINER

COLE, LAURA C

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,344

Applicant(s)

OHASHI ET AL.

Examiner

Laura C Cole

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03122004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1 and 5-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 6,718,562. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 5, and 6 are verbatim to claim 1 of USPN 6,718,562 except for the portion within Column 6 Lines 27-30 that recite that the shaft hold defines a vertical axis, that the first thin-walled portion is vertically separated from the second and third thin-walled portions along the vertical axis. Furthermore, Claim 7 depends from Claims 1, 5, and 6 is exactly in verbatim with claim 3 of USPN 6,718,562 which depends from Claim 1. It would have been obvious based on USPN 6,718,562 for one of ordinary skill in the art that a shaft would define an axis that would in turn determine a geometric relationship to thin walled portions based on the location

of such an axis. Also it is noted that Claim 2, 4, and 5 of USPN 6,718,562 are verbatim to Claims 2, 8, and 9 of the current Application.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the stopper (Claim 9 and Claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 9 and 11 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The "stopper" of claim 9 and claim 11 are not disclosed, described, or pictured in the specification. It is unclear what a "stopper" is, what it is used for, and how it works.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 10, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Goto et al., USPN 6,254,167.

Goto et al. discloses a wiper device for a vehicle that comprises a pivot shaft (Figure 4 (7)) with a base end connected to a wiper motor (Figure 1 shows (8) connecting the pivot to a WM (wiper motor)) and a top end disposed protrudingly from the body panel (Figure 4 (5)) and connected to a wiper arm (Figure 1 (WA)), a pivot holder, or "bearing", made of resin (Column 5 Lines 64-67; Column 8 Line 11; and Figure 4 (3) is shaded according to a resin material), a shaft hole in the pivot holder (Figure 4), a body fixing portion to be secured on the body panel of the vehicle (Figure 4 bolt and nut (6) and threads (22) and (23)), formed in one body together with the shaft holding portion (the threads are formed in the same body as the shaft holder), the shaft holder having a connecting portion with a thin walled destructible portion (threads (22) and (23)) that is destroyed at the time when an impulsive force of a variety of stresses exceeding a predetermined value is applied to the pivot shaft (Column 7 Line 63 to Column 8 Line 2; Column 8 Lines 3-14). A stopper, consisting of the cap of the wiper arm as Shown in Figure 1 is also employed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-7 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kagawa, USPN 6,505,376 in view of Goto et al., USPN 6,254,167.

Kagawa discloses a wiper apparatus for a vehicle that comprises a pivot shaft (Figure 2 (20)) with a base end connected to a wiper motor through a wiper linkage (Figure 3 (27)) and a top end to be disposed protrudingly from a body panel of the vehicle (Figure 3 (3)) and connected to a wiper arm (Figure 2 (12)), a pivot holder (Figure 3 (21)) with a shaft holding portion having a shaft hole or bearing (Column 3 Lines 59-64) supporting the pivot shaft and a body fixing portion to be secured to the body panel of the vehicle (Figure 2 (23a)) formed in one body together (Column 4 Lines

4-10) through a connection portion (Figure 2), the connecting portion of the pivot holder has a thin walled destructible portion to be destroyed when an impulsive force exceeding a predetermined value is applied on the pivot shaft (Figure 4 (24) and (25)) wherein a multiple of stresses are applied (as seen in Figure 3). The destructible portion is a first thin-walled portion formed on a face on one side of the connecting portion and a second thin-walled portion formed on a face on another side of the connecting portion (Figures 2-4 (24) and (25); Column 3 Lines 65-67); Column 4 Lines 21-33). First and second thin-walled portions are disposed alternately (Figure 4). A third (and fourth) thin-walled portion is formed on the connecting portion of the pivot holder (Figure 4). When installed, one thin-walled portion is on the center of the connecting portion (see alignment in Figure 3) while a second and third thin-walled portion is formed on sides of the connecting portion. All thin-walled sections are formed in arcuate shapes having the center identical to that of the shaft hole of the pivot center (Figure 4.) A "stopper" (Figure 2 (17)) is attached to the top end of the pivot shaft and the impulsive force applied to the pivot shaft is transmitted to the shaft-holding portion through the stopper (Figure 3). Kagawa does not disclose that the pivot holder is made from resin.

Goto et al. provides the teaching of that a pivot holder is made from a resin as mentioned above (Column 5 Lines 64-67).

It would have been obvious for one of ordinary skill in the art to manufacture the pivot holder of resin, as Goto et al. teaches, since resin is a known material for having the same strength and durability and may be manufactured inexpensively.

6. Claims 1-3 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kagawa et al., USPN 6,317,918 in view of Goto et al., USPN 6,254,167.

Kagawa et al. discloses a windshield wiper device for a vehicle that comprises a pivot shaft (Figure 2 (20)) with a base end connected to a wiper motor (Figure 1 (27)) and a top end disposed protrudingly from the body panel (Figure 2 (3)) and connected to a wiper arm (Figure 2 (12)), a pivot holder (Figure 2 (30)), a shaft hole or "bearing" (Figure 2 (31)) in the pivot holder (Figure 2), a body fixing portion to be secured on the body panel of the vehicle (Figure 2 bolt and nut (36)), formed in one body together with the shaft holding portion (Figure 2), the shaft holder having a connecting portion with a thin walled destructible portion (Figure 2 (35), another embodiment Figure 19) that is destroyed at the time when an impulsive force of a shear stress exceeding a predetermined value is applied to the pivot shaft (Figures 5-6; Column 7 Lines 52-63). A stopper, consisting of the cap of the wiper arm as Shown in Figure 2 (15) is also employed. Further, as shown in the embodiment of Figure 19 the destructible portion is composed of a first thin walled portion formed on a face on one side of the connecting portion and a second thin walled portion formed on a face on another side of said connecting portion of the pivot holder. Kagawa et al. does not disclose that the pivot holder is made from resin.

Goto et al. provides the teaching of that a pivot holder is made from a resin as mentioned above (Column 5 Lines 64-67).

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It would have been obvious for one of ordinary skill in the art to manufacture the pivot holder of resin, as Goto et al. teaches, since resin is a known material for having the same strength and durability and may be manufactured inexpensively.

7. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goto et al., USPN 6,254,167 in view of Princet, USPN 5,601,379.

Goto et al. disclose all elements above, however do not disclose that the pivot holder is connected with an end of a pipe frame of the wiper linkage at the shaft holding portion through outsert molding.

Princet teaches a support plate structure for a screen wiper mechanism wherein the pivot holder (Figures 1-2 (18)) is connected with an end of a pipe frame (pipe is Figure 2 (10)) of the wiper linkage at the shaft holding portion through outsert molding (Column 3 Lines 12-17). The pivot holder has a base end connected to a wiper motor through a wiper linkage (10) and a top end that connects to a wiper arm (Column 2 Lines 53-64.)

It would have been obvious for one of ordinary skill in the art to modify Goto et al. so that the linkage connected to the motor is one of a pipe frame that is connected by outsert molding as Princet teaches so that the connection is rigid enough to prevent displacement between the bearing and the linkage and to keep the linkage weighing less.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LCC


Terrence R. Till
Primary Examiner

23 August 2004